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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Applications of ) MM Docket No. 92-308  
 )  
Caroline K. Powley ) BPCT-900518KO  
d/b/a UNICORN SLIDE )  
 )  
TRUDY M. MITCHELL ) BPCT-900726KG  
 )  
For Construction Permit )  
Slidell, Louisiana )  
  
TO: Administrative Law Judge  
Richard L. Sippel

REQUEST FOR ITEMIZATION OF EXPENSES

Now comes Trudy M. Mitchell ("Mitchell"), an applicant in the captioned proceeding, by her counsel, and respectfully requests that the Administrative Law Judge direct that applicant Caroline K. Powley d/b/a Unicorn Slide ("Powley") provide an itemized breakdown of expenses she allegedly has incurred in filing and prosecuting her application. Mitchell has agreed to and is obligated to pay Powley up to \$35,000.00 for dismissal of her application and as such, is the principal party in interest in securing a breakdown of costs reasonably and prudently incurred by Powley in connection with her application.

By letter of February 26, 1993, counsel for Powley submitted a supplemental statement of expenses incurred by Powley:

Legal expenses	\$ 18,269.11
Filing Fee	2,250.00
Facilitator Expense	10,500.00

Mitchell suggests that the Commission may also in connection with approval of Powley's expenses wish a breakdown of each of these charges.

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### Legal Expenses

For the excellent work they have performed in behalf of Powley, her counsel has listed legal expenses of \$18,269.11. These include pleadings of record:

6/25/91	Motion to Dismiss or Deny (7 1/2 pages)
7/5/91	Supplement to Motion to Dismiss or Deny (3 pages)
7/19/91	Reply to Opposition to Motion to Dismiss or Deny (2 1/2 pages)
8/16/91	Further Supplement to Motion to Dismiss or Deny (3 1/2 pages)
9/20/91	Response to Statement for the Record (3 1/2 pages)
1/28/93	Motion to Suspend Procedural Dates (1 page, filed jointly with Mitchell)
2/1/93	Joint Request for Approval of Settlement Agreement (2 pages plus attachments, filed jointly with Mitchell)

A listing of the time spent on these pleadings and other matters in behalf of Powley's Slidell application,<sup>1</sup> by date and time spent would be of benefit to the Commission and would supply necessary information to Mitchell.

### Facilitator Expense

The situation is confusing with respect to this charge. The "sworn statement" of Ron Baptist states that first he was employed

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<sup>1</sup> Powley has also had pending at the Commission applications for Centerville, TX (BPH-900518MF); Manistee, MI (BPH-900518MQ); Springville, NY (BPCT-911029KG); and Rio Grand City, TX (BPCT-911024KP) and the Commission will want assurances that the expenses claimed for Slidell do not include work done for any other application.

by Mitchell for \$15,000.00 and subsequently (or contemporaneously) retained by her opponent Powley for the same amount.<sup>2</sup>

The "Facilitator Expense" in the STATEMENT filed on behalf of Powley on or about February 26, 1993 lists Mr. Baptist's expenses as \$10,500.00. This presumably includes the \$500.00 claimed for out-of-pocket expenses.

At a second page of his sworn statement, Mr. Baptist states that he is ". . .willing to modify my agreement and reduce my fee to Unicorn Slide [Powley] to the lesser amount of \$7,500.00 plus \$500.00 reimbursement. . .". Thus we have three claimed figures for the facilitator's expense. Understandably, Mitchell would prefer to pay the least. In any event, however, Mr. Baptist should submit a detailed accounting of the time spent talking to each applicant and/or their respective counsel, backing up his charges of \$7,500.00 as well as a list of telephone calls, postage, etc. that have totaled exactly \$500.00.

#### CONCLUSION

Commission rules prohibit payment in settlement in excess of expenses reasonably and prudently incurred by an applicant, but chances for inflation of costs are enhanced by blanket claims without substantiation or detailed accounting. This is not to imply that representatives of Powley have in any sense "padded their charges" but only to suggest that the Commission should, in

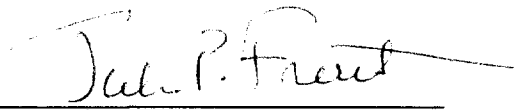
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<sup>2</sup> The ethics of representing both sides in an adversarial proceeding may raise an eyebrow at the Commission. Mr. Baptist is apparently not a lawyer; hence questions of legal ethics are probably not applicable.

order to make for a complete record, require that expenses be detailed and if necessary, supported by receipts, cancelled checks or at least invoices. The Administrative Law Judge in this proceeding is urged to approve any and all properly documented expenses, and Mitchell will thereupon pay them upon grant of her application.

Respectfully submitted,

TRUDY M. MITCHELL

By   
Julian P. Freret  
Her Counsel

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March 5, 1993

**CERTIFICATE OF SERVICE**

I, Margaret A. Ford, Office Manager of the law firm of Booth, Freret & Imlay, do hereby certify that copies of the foregoing REQUEST FOR ITEMIZATION OF EXPENSES were mailed this 5th day of March, 1993, to the offices of the following:


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\* Via Hand Delivery